



American Association of
**Exporters and
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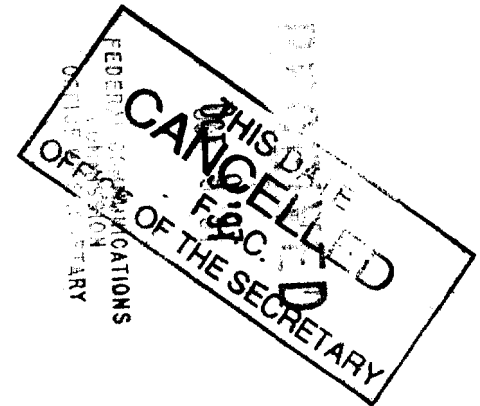
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JB Docket No. 97-142

EX PARTE OR LATE FILED

August 21, 1997

Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554



Dear Chairman Hundt:

The Association is most concerned that the FCC's currently proposed licensing regulations to implement the terms of the 69 nations WTO Basic Telecommunications agreement will fall short of U.S. liberalization obligations by introducing new elements for the FCC to weigh before granting licenses to foreign telecoms to enter the U.S. market, by making certain other criteria so broad and vague as to be open to abuse, and by denying national treatment to non-governmental foreign corporations from WTO member nations, in certain areas.

Should these objectionable portions of the proposed regulations go unchanged, other pact signatories are likely to water down their market opening rules. This would cost U.S. business trade and investment opportunities abroad, reduce competition in the U.S. market from its pact potential, and could saddle the U.S. with the European Union's threatened complaint to the WTO on some of these questions.

The Association feels most strongly that our country's short term interests in this case and our country's long term interests in all cases lie in supporting and conforming to the rule of law rather than in achieving U.S. advantages through the exercise of our (now) unrivaled power.

With the USTR announcement of a "coordinated and coherent" effort to ensure that the other 68 port nations meet their obligations to open their telecoms markets to U.S. companies, it surely behooves this country to meet its obligations to those 68 nations.

Rational complaints against portions of the U.S. proposal have come from the European Commission, which is sufficiently upset to threaten a complaint to the WTO, and from former FCC senior official Albert P. Halprin. The validity of most of these complaints has been recognized in corrective legislation introduced in the Senate by John McCain and Conrad Burns, and in the House by Michael G. Oxley.

The Association understands that the USTR has worked with the FCC in drafting the proposals. We are also aware that a U.S. Embassy spokesman in Brussels has said that the EC complaints are under considerations. The Embassy response, while appropriate, promises very little.

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The EC rightly complains, we believe, that the FCC's proposed justification for denying a license to enter the U.S. market to a carrier based in a WTO member country on grounds of "public interest" such as law enforcement, foreign policy and trade considerations are too broad and unclear. The U.S. continuously and correctly calls for transparency in foreign government trade and investment laws. Mr. Halprin also points out that there is nothing in U.S. law which gives the FCC any legal authority over trade matters, that national treatment is lacking here, and that this clause runs counter to WTO rules. The Association also sees merit in the EC complaint that the concept of "very high risk to competition" as a justification for refusing a license as too broad and unclear, and thus subject to abuse. Further, the EC questions the assumption that different safeguard standards are appropriate for U.S. telecom carriers that are affiliated with foreign carriers that have market power in destination countries.

The requirement of national treatment is also violated by the FCC's proposal to continue its rule requiring FCC approval of minority foreign (non-governmental) investment, by a WTO member company of 25% or more in U.S. wireless services, when made through a holding company. No such prior approval is needed by a U.S. company. The FCC does propose a "presumption" favoring approval, but this does not protect the foreign company from the high cost and loss of time (and possibly the opportunity to close a deal) inherent in presenting such a proposal to the FCC.

The FCC proposal would also require a 60 day notice of and the right of purchase by such a foreign company although such notice is not required of a U.S. company.

The Association respectfully asks that you cause the FCC to re-visit and amend these proposals.

Very truly yours,

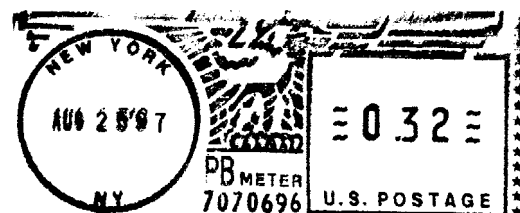
A handwritten signature in dark ink, appearing to read "Lee Greenbaum", written in a cursive style.

Lee Greenbaum
Senior Trade Advisor



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